



Affordable Housing and Special Needs Programs

Program Guidelines

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Virginia Department of Housing and Community Development
501 North Second Street
Richmond, VA 23219
(804) 371-7100
<http://www.dhcd.virginia.gov>

Purpose

The Affordable Housing and Special Needs Program Guidelines provides program information to current and potential housing developers working with the Virginia Department of Housing and Community Development (DHCD) to produce affordable housing units for low income Virginians and affordable units for special needs populations (older adults, and individuals with disabilities and/or experiencing chronic homelessness).

This document is intended to provide guidance only. For more detailed information and for questions outside the scope of the guidelines please contact DHCD at (804) 371-7100 or email at HFUNIT@dhcd.virginia.gov.

Background

These programs are funded through the federal *HOME* Investment Partnership Program (HOME). This federal funding was created through the National Affordable Housing Act of 1990. Funds from the HOME program are made available annually through formula allocations to states and local governments (***Participating Jurisdictions*** or PJs).

PJs are responsible for conducting needs assessments and establishing priorities and goals, and developing and managing the programs that will help meet these goals. The Affordable Housing Program is one of the Commonwealth's HOME programs. For more information please go to the Consolidated Plan Action Plan, located online at http://www.dhcd.virginia.gov/ConPlan/ConPlan_ActionPlan_FY_2007.pdf.

Through the Affordable Housing and Special Needs Housing Programs, DHCD fills gaps in financing to make possible the creation and preservation of affordable housing for low income Virginians and Virginians with special needs. While these programs are statewide they are targeted primarily to areas not receiving a direct federal HOME allocation through a local PJ.

Through a competitive quarterly funding process housing developers, non-profits, and specifically ***CHDOs*** (certified Community Housing Development Organizations) submit project proposals. The project proposals that are determined to best meet critical affordable housing needs within the Commonwealth are then selected for funding.

Please note that CHDOs are state certified non-profit community-based housing developers that meet specific criteria. For more information of CHDO certification please see the *Resources and References* section of the guidelines.

Program Fund Availability

Developers may submit project proposals to DHCD for consideration on a quarterly basis. All proposals received by the deadline will be reviewed against established criteria to identify those projects best positioned to meet priority housing needs within Virginia.

Fund Distribution

- Quarterly competitive process.
- Project proposals are rated on how well the proposals appear to meet housing needs (50 percent), feasibility (30 percent) or overall how feasible the project plans appear, and on the development team's capacity (20 percent) to successfully complete the proposed project.
- For more details on the application/proposal process please contact DHCD at (804) 371-7100 or email at HFUNIT@dhcd.virginia.gov.
- As with any federal funds projects, Fair Housing and other federal provisions apply to all federally funded projects including those funded through these programs.
- The type of assistance received through these programs is typically gap financing or, in other words, after all other financial commitments are received these funds are leveraged to close a financing gap in the affordable housing project. At all times the amount of HOME funds committed through these programs is the minimal amount needed.
- Assistance is generally structured as a three percent interest only loan over a specified period of time.
- Anytime funds are committed from these programs to a project it results in a mandatory **affordability period** on the property. This is the period of time that the unit or units must be maintained as affordable according to the agreement between the developer and DHCD. This affordability period is enforced through a restrictive covenant deed on the unit/units. If the affordability period agreement is breached then the assistance received through these programs will need to be returned to DHCD. The affordability period is always based on the total amount of HOME assistance (including both developer subsidies and homeownership assistance).

Affordability Requirements	
Assistance per Unit	Length of Affordability/Compliance Period
Less than \$15,000	5 years
\$15,000 to \$40,000	10 years
More than \$40,000	15 years
Rental New Construction	20 years

What are Eligible Projects?

Eligible projects produce or preserve affordable housing units for low to moderate income homeowners and low income renters. Projects must include a minimum of five units and must be under common ownership, management, and financing. The minimum investment per unit is at least \$7,500, but no more than the actual costs or the **221 (d)(3) limit**. Selected project will always be assisted with the minimum amount of HOME assistance needed.

Affordable Housing Project Definition

- Minimum five units per project
- Rental or Homebuyer (only CHDOs may produce units for homeownership)
- Units must be under common ownership, management, & financing

What are Eligible Costs?

In general this assistance or loan would be limited to \$500,000 per project or maximum allowed based on HOME maximum unit subsidies (the lesser of the two). Program dollars can never be used for luxury improvements or improvements that exceed the neighborhood standard. Minimum assistance needed is a key to determining total amount of financing received through these programs.

Eligible Costs

- \$7,500 per unit minimum for projects or the replacement of three out of five major systems.
- The 221 (d)(3) limit or actual costs (lesser of the two) per unit are the upper maximum limits for assistance, however DHCD's goal is to maximize all program dollars. To that end DHCD will not invest more funding than is needed in any project.
- New construction, rehabilitation, and acquisition (only when combined with rehabilitation or new construction) are eligible project costs.
- Assistance can be used to acquire vacant land or improved land but construction MUST begin within 12 months.
- Project reserves (up to 18 months for lease-up period).
- General project development costs (e.g., environmental review, developer fees, legal fees).
- See the homebuyer and rental sections to follow for costs and program requirements specific to these types of development.

Ineligible Costs

- NO reserve accounts.
- Can NOT be used as a match for another federal program (except ***McKinney Act Program***).
- NO ***land banking***.
- Can not be used for assistance to public housing.
- NO additional investment in any project that was assisted with HOME funds during affordability period.
- Can NOT use funds to acquire PJ (State) owned property.
- No project based rental assistance.
- No paying of delinquent taxes on behalf of the owner.

Homebuyer Development

The Affordable Housing Program provides gap financing for both homebuyer and rental development. Homebuyer development produces affordable units for income eligible first-time homebuyers within Virginia.

Specific Homebuyer Development Activities

- Only certified **CHDOs** (Community Housing Development Organizations) can undertake homebuyer development projects.
- New construction, rehabilitation, and acquisition (only in combination with new construction or rehabilitation), and *lease purchase* (specific time limits apply to lease purchase).
- Site preparation, demolition, construction costs are eligible expenses.
- Five unit minimum per project .
- Property types include single family, two-four unit properties, condos, and manufactured homes.
- The minimum investment per unit is at least \$7,500 (or three out of five systems), but no more than the actual costs or the 221 (d)(3) limit. Selected project will always be assisted with the minimum amount of HOME assistance needed.
- Units must meet the DHCD's Minimum *Design, Construction, and Rehab Requirements* at the time of occupancy.
- Clients (homebuyers) must be income eligible (see below for more detail).
- Units must be maintained for a specific period of time as "affordable" based on the amount of the HOME investment in the unit (see below for more detail).

Homebuyer: Property Values

- Housing must be modest (based on property sales price or value). No luxury homes or amenities (based on neighborhood standards) are allowed for assisted units.
- The sales price can NOT exceed 95 percent of median area purchase price (use HUD 203 (b) limits of local market survey).

Homebuyer: Property Standards

- Property must be inspected and meet property standards before occupancy
- Must meet DHCD's Minimum *Design, Construction, and Rehab Requirements* at project completion and within two years of transfer
- Must be free of any health or safety defects before occupancy and no later than six month after transfer
- Must meet lead safe provision (see *Resources and References* section for more details)
- Fair Housing and other federal provisions apply to all federally funded projects

Homebuyer: Income Eligibility

- 60 percent of units **MUST** be sold to households with incomes at or below 60 percent **AMI** (area median income); the remaining 40 percent of the units can be sold to households at or below 80 percent AMI.
- Income eligibility must be determined at purchase for existing houses, at contract signing for new construction, or at signing of lease-purchase agreement.
- See *Resources and References* section to determine a specific locality's AMI.
- Homebuyers may receive HOME downpayment assistance to assist in the purchase of the home, but the total of all HOME assistance must be included in the calculation of the affordability period (see the following section for more details).

Rental Development

Rental development can be carried out by CHDOs, non-profit housing developers, or for-profit housing developers. While the guidelines differ slightly from homebuyer development, the ultimate goals are the same: to produce affordable housing units for low income and special needs households.

Rental: Eligible Projects

- Minimum investment is \$7,500 or replacing three out of four of the major systems.
- If a project goes beyond of the footprint of the existing building or adds units then the project is considered new construction.
- Moderate to substantial rehabilitation, historic preservation, reconstruction, or the conversion of a non-residential building to a residential use are all considered eligible project types.
- Acquisition is only an eligible project when it is in combination with new construction or rehabilitation.
- Assisted units must meet ALL HOME rules: including rent standards, affordability, income eligibility, quality standards, and lease provision.
- When funding sources are mixed with assistance through this program then there needs to be a determination of the number of “HOME-assisted” (or program assisted) units within the project’s total units.
- While the affordability period is typically based on the total investment per/unit, for new rental construction there is always a minimum 20 year affordability period.
- HOME funds can be used in combination with other funds to produce mixed income or mixed use projects, but HOME funds are limited to eligible HOME residential units.
- Group homes, transitional housing, and SRO (single room occupancy) are eligible projects (tenants must have lease, be income eligible and housing can not be conditional based on participation in service programs) and project must meet the five unit project minimum.

Rental: Ineligible Projects

- No facilities (e.g., hospitals, emergency shelters, etc...).
- Cannot assist property that has been previously assisted with HOME funds during the affordability period.
- No public housing projects.

Rental: Eligible Costs

- Demolition cost are eligible costs, however construction must begin within 12 months.
- Construction labor and materials.
- Project development related costs (e.g., financing fees, legal fees, affirmative action marketing).
- Up to 18 months operating deficit reserve (new construction and rehab).
- Relocation (can pay for relocation costs for any household in HOME project as a part of the overall project development costs).
- Per unit costs can not exceed the 221 (d)(3) HOME maximum per unit subsidy limits – actual program assistance will be minimum needed to produce affordable units.
- Actual project investment will depend on proportion of total project cost that are eligible costs, the number of HOME-assisted units, amount of available funding, AND the financial needs of the project.

Rental: Ineligible Costs

- No other types of project reserves.
- Operating reserves are limited to 18 months - operating reserves beyond 18 months are ineligible.
- This assistance can not be used for the development, operation, or modernization of any public housing.
- Acquisition of PJ (State) owned property is prohibited.
- Project based rental assistance is a prohibited expense.
- Delinquent taxes, fees, charges can never be paid with funding received through these programs.

- Items not allowed under A-87 or not deemed cost reasonable (see the *Resources and References* section for more details).

Rental: HOME Program Requirements

- Only HOME or program assisted units are subject to “HOME” requirements.
- If a property will have both HOME-assisted units and non-assisted units then must choose either “**fixed**” or “**floating**” units; if floating units, the units MUST be comparable.
- All rental development must meet DHCD’s Minimum *Design, Construction, and Rehab Requirements* at project completion.
- Owners must maintain properties in accordance with property standards throughout the affordability period. DHCD will conduct periodic inspections to determine compliance with this requirement.
- All assisted units must meet the accessibility requirements of the Fair Housing Act and **Section 504**. Handicapped accessibility (section 504) may apply (see the *Resources and References* section for more details).
- For new construction a project must meet any neighborhood standards. These vary and may be informal or formal standards that are established by a specific neighborhood or neighborhood association.
- All project rents must be established by and continue to meet federal HOME procedures and regulations.
- 20 percent of all units must be provided to households at or below 50 percent AMI; the remaining households served can be at 60 percent or below AMI; if Low Income Housing Tax Credits are used then 40 percent of all units MUST target 50 percent AMI.
- Initial income eligibility is based on gross income (adjusted gross income defined by IRS for IRS Form 1040 or annual income as reported on Census long form).
- Income source documentation MUST be obtained and verified for initial income eligibility.
- Lease for tenants must be for at least one year, unless agreed upon by owner and tenant.

- If fixed units, affordability period stays with same units over the entire affordability period; if floating units then the same proportion of units will have the affordability restriction over the entire period (floating units must be comparable in terms of the number of bedrooms and baths, square footage, and amenities).

Rental: Monitoring/Reporting Requirements

- DHCD will monitor all projects during the affordability periods to assure continued compliance with property standards, income eligibility, rent standards, and other program requirements.
- Monitoring is based on a risk analysis and as needed.
- Initial and annual recertification of income eligibility is required.
- Project documentation should be maintained for at least five years post project competition.
- Completion forms must be submitted to DHCD in a timely manner. The final ten percent of the funding will not be released until a satisfactory completion form has been received by DHCD for the project.
- All renter/client files should be maintained for at least five years.
- Lease up documentation as well as all inspection documents MUST be submitted to DHCD in order to close development phase of project and to assure eligibility of developer for funding of future projects.
- Non-compliance could suspend eligibility for additional HOME funds and could result in the repayment of funds to DHCD.

Glossary of Terms

221 (d)(3) Limit – The maximum per-unit HOME investment limit varies by PJ. HUD determines the maximum amounts, which are based on the PJ's Section 221(d)(3) program limits for the metropolitan area, each year. These limits are determined by HUD's Office of Multi-Family Housing Programs. Limits for certain "base cities" are issued. However, there is no comprehensive list of these limits for all jurisdictions. The latest limit for a particular jurisdiction must be obtained from the appropriate [HUD Multi-Family Housing Hub Office or Program Center](#). The per-unit subsidy requirements are described in the HOME regulations at [24 CFR 92.250](#).

Affordability Period – To ensure that HOME investments yield affordable housing over the long term, HOME imposes rent and occupancy requirements over the length of an affordability period. For homebuyer and rental projects, the length of the affordability period depends on the amount of the HOME investment in the property and the nature of the activity funded. A table illustrates the affordability periods below:

HOME Investment per Unit	Length of the Affordability Period
Less than \$15,000	5 years
\$15,000 - \$40,000	10 years
More than \$40,000	15 years
New construction of <i>rental</i> housing	20 years
Refinancing of <i>rental</i> housing	15 years

AMI –Area Median Income divides family income distribution into two equal parts: one-half of the cases falling below the median household income and one-half above the median. (In other words, if we lined up all the household incomes from the smallest to the largest household income for this area, the median for this area would be the number right in the middle of that line-up of numbers. For households, the median income is based on the distribution of the total number of households including those with no income.)

CHDO – A Community Housing Development Organization (CHDO) is a private nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing for the community it serves. PJs must set aside a minimum of 15 percent of their total HOME allocations for housing development activities in which qualified CHDOs are the owners, developers, and/or sponsors of the housing.

- A CHDO becomes certified by meeting certain requirements pertaining to their:
 - Legal status;
 - Organizational structure; and

- Capacity and experience.

CHDO Legal Status – A CHDO must be organized under state and local law, incorporate a provision of providing decent and affordable housing to low- and moderate-income persons in its organizational purpose, have a clearly defined service area, be designated as a nonprofit, and not directly benefit any members, founders, contributors, or individuals by CHDO earnings.

Organizational Structure – The CHDO board must be composed as follows:

- A minimum of one-third must be representatives of the low-income community. Low-income neighborhoods are defined as neighborhoods where 51 percent or more of the residents are low-income. Residents of low-income neighborhoods do not have to be low-income themselves to represent the low-income neighborhood on the Board. Elected representatives of low-income neighborhood associations are eligible to represent the low-income community. Low-income residents from non-low-income areas may represent the low-income community, as well. Additionally, the CHDO must provide a formal process for low-income program beneficiaries to advise the CHDO on design, location of sites, development, and management of affordable housing.
- A maximum of one-third may be public officials or employees of the PJ or State Recipient. This limitation is intended to ensure that separation exists between PJs and CHDOs, and that CHDOs are indeed community-based and community-controlled organizations. Public officials consist of elected officials, appointed public officials, public employees, and individuals appointed by a public official.
- The balance of the board is unrestricted, and may include people such as human and social service providers, lenders, individuals with access to philanthropic resources, or others willing to contribute their professional expertise.

Capacity and Experience – A CHDO must demonstrate it has at least **one year** of experience serving the community where it intends to develop the HOME-assisted housing. Newly created organizations can meet this criterion by demonstrating that the parent (or sponsoring) organization has at least a year of experience in the target community. Additionally, CHDOs must demonstrate that their key staff are capable to carry out the HOME-assisted activities they are planning by either 1) demonstrating that they have successfully completed **similar** projects to those proposed or 2) using experienced consultants for planning and development activities, as long as a plan is created for the consultant to **train** the key staff.

Consolidated Plan – The Consolidated Plan is designed to be a collaborative process whereby a state or local jurisdiction (PJ) establishes a unified vision for community development actions. It offers state and local jurisdictions the opportunity to shape the various housing and community development programs into effective, coordinated community development strategies. The vision outlines the respective state’s overall policies and objectives for housing and community development. It also creates the opportunity for strategic planning and citizen participation to take place in a comprehensive context, serves to reduce duplication of effort at the state level, and serves as a management tool that helps the state, local governments, and citizens assess performance and track results.

Fixed or Floating Units – For properties with both assisted and non-assisted units, the program administrator must select “fixed” or “floating” units at the time of project completion.

- Fixed units –When HOME-assisted units are fixed, the specific units that are HOME-assisted (and, therefore, subject to HOME rent and occupancy requirements) are designated and never change.
- Floating units –When HOME-assisted units are floating, the units that are designated as HOME-assisted may change over time as long as the total number of HOME-assisted units in the project remains constant. If the floating unit designation is used, the owner must ensure that the HOME-assisted units remain comparable to the non-assisted units over the affordability period in terms of size, features, and number of bedrooms.

HOME – The Home Investment Partnerships (HOME) Program was created by the National Affordable Housing Act of 1990 (NAHA) to provide decent affordable housing to lower-income households. The program also seeks to expand the capacity of nonprofit housing providers, strengthen the ability of state and local governments to provide housing, and leverage private-sector participation. The HOME program is the federal source of funding for these two programs (Affordable Housing and Special Needs Housing) administered through DHCD.

Land Banking – A PJ *may not* use HOME program funds to reimburse itself for property in its inventory or property purchased for another purpose. However, in anticipation of a HOME project, a PJ may use HOME funds to:

- Acquire property;
- Reimburse itself for property acquired specifically for a HOME project with other funds.

Lease Purchase

The CHDO enters into a lease purchase agreement with a client that will be renting the homebuyer unit while working toward homeownership of the same unit. HOME program regulations mandate that sale of leased unit to the renter be within 36 months from the signing of the lease, or within 42 months of project completion; if renter is unable to purchase at the end of 36 months the CHDO has six months to find another qualified homebuyer to purchase; if no eligible homebuyer purchases the unit by the end of 42 months the unit converts to a HOME rental unit.

McKinney Act –The McKinney Act originally consisted of fifteen programs providing a range of services to homeless people, including the Continuum of Care Programs: the Supportive Housing Program, the Shelter Plus Care Program, and the Single Room Occupancy Program, as well as the Emergency Shelter Grant Program. These programs are all contained within Title IV. The Supportive Housing Program requires a match and in this case HOME funds may be used for a match.

Participating Jurisdiction (PJ) – HOME funds are allocated by formula to PJs. PJs are state and local governments (including consortia) that receive funds to operate the program. Forty percent of each annual appropriation is allocated by formula to state PJs and 60 percent to local government PJs. Local governments receive designation of PJ status from HUD or may choose to form a local consortium, particularly when one or more members (units of local government) are not eligible to receive a formula allocation. Areas not served by local PJs are served by a state PJ.

Project Reserve Accounts – HOME funds may *not* be used to provide project reserve accounts (except for initial operating deficit reserves) and may not be used to pay for operating subsidies.

Section 504 -Rehabilitation Act of 1973 is a national law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency

Other Resources

2007 HUD Area Median Income Database:

<https://www.efanniemae.com/sf/refmaterials/hudmedinc/>

2007-2008 Consolidated Action Plan:

http://www.dhcd.virginia.gov/ConPlan/ConPlan_ActionPlan_FY_2007.pdf

A-87 Allowable Costs:

http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html

Accessibility Notice: Section 504

<http://www.hud.gov/offices/cpd/lawsregs/notices/2000/00-9.doc>

Allocating Costs and Determining HOME-assisted Units in Multi-family Projects:

<http://www.hud.gov/offices/cpd/lawsregs/notices/1998/98-2.pdf>

CHDO -Find out more about becoming a CHDO (Community Housing Development Organization):

<http://www.dhcd.virginia.gov/HomelessnessstoHomeownership/CommunityHousingDevelopmentOrganizations.htm>

Housing Quality Standards:

http://www.hudclips.org/sub_nonhud/html/pdfforms/7420g10.pdf

HOME Rent Limits:

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/2007/index.cfm>

<http://www.hud.gov/offices/cpd/affordablehousing/library/pih9663.pdf>

DHCD HOMEownership Assistance Program:

http://www.dhcd.virginia.gov/HomelessnessstoHomeownership/HOMEownership_Down_Payment_AssistanceProgram.htm

Using HOME funds for SRO housing:

<http://www.hud.gov/offices/cpd/lawsregs/notices/prior95/cpd9401.pdf>

HOME Laws Subpart A:

<http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/laws/home/suba/parta.pdf>

HOME per unit Subsidy Limits 221(d)(3):

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/subsidylimits.cfm>

Lead Provisions -Summary of Lead-Safe Housing Rule Requirement:

<http://www.hud.gov/offices/lead/leadsaferule/summary.cfm>

Office of Community Capacity Building (OCCB) –

http://www.dhcd.virginia.gov/CommunityCapacityBuilding/Office_of_Community_Capacity_Building.htm